THE HYDERABAD PROBATION OF OFFENDERS ACT, 1953

No. XII OF 1953.

CONTENTS.

Preamble.

Sections.

1. Short title, extent and commencement.
2. Interpretation.
3. Power of court to release certain offenders after admonition.
4. Power of court to release certain offenders on probation of good conduct.
5. Procedure in cases submitted by Magistrates not empowered to act under setions 3 and 4.
6. Powers of Appellate Courts.
7. Procedure in case of offender failing to observe conditions of release.
8. Provisions as to bonds.
9. Appointment of Probation Officers.
10. Duties of Probation Officers.
11. Variation of conditions of probation & discharge of bonds executed by offender.
12. Effect of variation of bond on sureties.
13. Removal of disqualification attaching to conviction for offences.
14. Power of Government to make rules.
15. Saving of the operation of the Hyderabad Children Act, 1951 (XXXII of 1951).
16. Saving of the jurisdiction of the High Court.

*THE HYDERABAD PROBATION OF OFFENDERS ACT, 1953.

No. XII OF 1953.

An Act to provide for the release on probation of first offenders.

Whereas it is expedient to provide for the release on probation of first offenders in certain cases and for other matters incidental thereto; Preamble.

It is hereby enacted as follows :—

1. (1) This Act may be called the Hyderabad Probation of Offenders Act, 1953. Short title, extent and commencement.

(2) It extends to the whole of the State of Hyderabad.

(3) (*a*) This section shall come into force at once.

(*b*) The Government may, by notification in the Jarida, direct that all or any of the remaining provisions of this Act shall come into force in any local area on such date as may be specified in such notification.

2. In this Act, unless there is anything repugnant in the subject or context—

(*a*) the "Code" means the Code of Criminal Procedure, 1898; and Interpretation.

(*b*) expressions used but not defined in this Act and defined in the Code have the meanings assigned to them in the Code.

3. In any case in which a person is found guilty of the offence of theft, dishonest, misappropriation, or cheating punishable under the Indian Penal Code or of any offence punishable with not more than two years imprisonment and previous conviction is proved against him, the court by which he is found guilty may, if it thinks fit, having regard to the age, character, antecedents or physical condition of the offender and to the trivial nature of the offence or any extenuating circumstances under which the offence was committed, instead of sentencing him to any punishment, release him after due admonition. Power of Court to release certain offenders after admonition.

*Published in Extraordinary Gazette No. 159 dated 28th August, 1953.

Power of Court to release certain offenders on probation of good conduct.

4. (1) When any person not under twenty-one years of age is found guilty of an offence punishable with imprisonment for not more than seven years, or when any person under twenty-one years of age or any woman is found guilty of an offence not punishable with death or transportation for life, and no previous conviction is proved against the offender, if it appears to the Court by which he is found guilty, regard being had to the age, character, antecedents or physical or mental condition of the offender and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period not exceeding three years as the court may direct, and in the meantime to keep the peace and be of good behaviour:

Provided that the court shall not direct the release of an offender under this section, unless it is satisfied that the offender or one of his sureties (if any) has a fixed place of abode or regular occupation in the place for which the court acts or in which the offender is likely to live during the period named for the observance of the conditions.

(2) Where the offender referred to in sub-section (1) is under twenty-four years of age, the court may make a supervision order directing that such offender shall be under the supervision of such probation officer as may be named in the order during the period specified therein and imposing such other conditions for securing such supervision as may be specified in the order:

Provided that the period so specified shall not extend beyond the date on which, in the opinion of the court, the offender will attain the age of twenty-five years.

(3) A court making a supervision order under sub-section (2) shall require the offender, before he is released, to enter into a bond with or without sureties, to observe the conditions specified in such order and such additional conditions with respect to residence, absention from intoxicants and any other matters as the court

may, having regard to the particular circumstances of the case, consider fit to impose for preventing a repetition of the same offence or a commission of other offences by the offender.

(4) A court making a svpervision order shall furnish to the offender and the sureties, if any, a notice in writing stating in simple terms the conditions of the bond.

Procedure in cases submitted by Magistrates not empowered to act under section 3 and 4.

5. Notwithstanding anything contained in sections 3 and 4, where any first offender is found guilty of an offence by a Magistrate of the third class, or a Magistrate of the second class not specially empowered by the Government in this behalf, and the Magistrate is of opinion that the powers conferred by the said sections should be exercised, he shall record his opinion to that effect and submit the proceedings to a Magistrate of the first class or Subdivisional Magistrate, forwarding the accused to, or taking bail for his appearance before, such Magistrate, who may thereupon pass such sentence or make such order as he might have passed or made if the case had originally been heard by him, and, if he thinks further inquiry or additional evidence on any point to be necessary, he may make such inquiry or take such evidence himself or direct such inquiry or evidence to be made or taken.

Powers of Appellate Courts.

6. An order under section 3 or section 4 may be made by an Appellate Court.

Procedure in case of offender failing to observe conditions of release.

7. (1) If the Court before which the offender is bound by his bond under section 4 to appear for sentence when called upon, or any court which could have dealt with offender in respect of his original offence, has reason to believe that the offender has failed to observe any of the conditions of the bond or bonds executed by him, it may issue a warrant for his apprehension, or may, if it thinks fit, issue a summons to the offender and his sureties, if any, requiring him or them to attend before it at such time as may be specified in the summons.

(2) The court before which an offender is so brought or appears may either remand him to custody until the case is concluded, or admit him to bail, with or without sureties, to appear on the date of hearing.

(3) If the court, after hearing the case, is satisfied that the offender has failed to observe any of the conditions of the bonds executed by him, it may forthwith—

(*a*) sentence him for the original offence, or

(*b*) without prejudice to the continuance in force of the bond or bonds, impose upon him, in respect of the first such failure, a penalty not exceeding the amount of fine which may be imposed for the original offence but in no case exceeding fifty rupees.

(4) If a penalty imposed under clause (*b*) of sub-setion (3) is not paid within such period as the court may fix, the court may sentence the offender for the original offence.

Provision as to bonds.

8. The provisions of sections 122, 126, 126-A, 406-A (*b*) and (*c*), 514, 514-A, 514-B and 515 of the Code, shall, so far as may be, apply in the case of sureties given under this Act.

Appointment of probation officers.

9. (1) A probation officer named in a supervision order may be—

(*a*) any person appointed to be a probation officer by the Government or a person authorsied by them, or

(*b*) any person provided for this purpose by a society recognised in this behalf by the Government, or

(*c*) in any exceptional case, any other person who, in the opinion of the court, is a fit person to act as a probation officer in the special circumstances of the case.

Explanation:—A probation officer may be a person of either sex.

(2) In naming a probation officer in a supervision order, the court shall be guided by any general or special instructions the Government may issue in this behalf.

(3) A probation officer, in the discharge of his duties under any supervision order, shall be subject to the control of the District Magistrate of the district in which the offender for the time being resides.

(4) The court before which an offender is bound by his bond to appear for sentence when called upon, or the District Magistrate of the district in which the offender for the time being resides, may at any time appoint another probation officer in the place of the person named in a supervision order.

Explanation :—For the purposes of this section, the City of Hyderabad and Secunderabad shall be deemed to be a district and the Commissioner of City Police shall be deemed to be the District Magistrate of that district.

Duties of probation officers.

10. A probation officer shall, subject to rules made under this Act and to the directions of the court—

(*a*) visit or receive visits from the offender at such reasonable intervals as many be specified in the supervision order, or subject thereto, as the probation officer may think fit ;

(*b*) see that he observes the conditions of the bond or bonds executed by him ;

(*c*) report to the court as to his behaviour ; and

(*d*) advise, assist and befriend him, and when necessary, endeavour to find suitable employment for him ;

Variation of conditions of probation and discharge of bonds executed by offender.

11. The court before which any offender is bound by his bond under section 4 to appear for sentence when called upon—

(*a*) may at any time if it appears, upon the application of the probation officer, that it is expedient that the bond or bonds executed by the offender should be varied, summon him and if he fails to show cause why such variation should not be made, vary the bond or bonds by extending or diminishing the duration thereof (so, however, that it shall not exceed three years from the date of the original order and shall not extend beyond the date on which in the opinion of the court, the offender shall attain the age of twenty-five years), or by altering the conditions thereof or by inserting additional conditions therein, or

(*b*) may on application made by the probation officer and on being satisfied that the conduct of the offender has been such as to make it unnecessary that he should be kept any longer under supervision, discharge the bond or bonds executed by him.

Effect of variation of bond on sureties.

12. (1) When any condition in a bond is relaxed under the provisions of section 11, the condition as so relaxed and not the original condition shall be binding on the sureties to the bond.

(2) Where any condition in a bond is made more onerous under the provisions of section 11, such condition shall not be binding in the more onerous form on any surety to the bond, unless he has accepted it in writing, but the condition in its original form shall continue to bind any surety who has not accepted the condition in its more onerous form.

(3) Where any additional condition is imposed under the provisions of section 11, such additional condition shall not be binding on any surety to the bond unless he has accepted it in writing.

(4) No variation in, or addition to, the conditions of any bond made under the provisions of section 11, shall affect the liability of any surety to the bond in respect of any condition which has not been varied.

Removal of disqualification attaching to convicton for offences.

13. Any person who is found guilty of an offence and is dealt with under the provisions of this Act shall not suffer any disqualfication attaching to a conviction for the offence :

Provided that this section shall not apply to a person released on probation if subsequent to such release he was sentenced under sub-setion (3) of setion 7 or a penalty was imposed on him under that sub-section.

Power of Government to make rules.

14. (1) The Government may, either generally or specially for any area or areas in which this Act is in force, make rules consistent with this Act for carrying out all or any of the purposes thereof.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for or regulate—

(*a*) any matters incidental to the appointment, resignation and removal of probation officers;

(*b*) the payment of remuneration and expenses to probation officers or of a subsidy to any society which provides persons for appointment as probation officers; and

(*c*) the conditions on which societies may be recognized for the purposes of clause (*b*) of sub-section (1) of section 9.

(3) All rules made under this section shall be subject to the condition of previous publication.

Saving of the operation of the Hyderabad Children Act, 1951 XXXII of 1951).

15. Nothing in this Act shall affect the provisions of the Hyderabad Children Act, 1951.

Saving of the jurisdiction of the High Court.

16. Nothing in this Act shall be deemed in any way to affect or derogate from the jurisdiction of the High Court.